

2. Scope of Services.

(a) The Contractor shall conduct the work outlined in the Commission's Request for Proposal ("RFP") (incorporated herein as Attachment 1), in a manner deemed by the Commission to be satisfactory and proper, and in accordance with procedures outlined in the Contractor's Proposal dated _____ (incorporated herein as Attachment 2). In cases where the Contractor believes that modifications to the work as outlined in the Commission's RFP or in the Contractor's Scope of Services are necessary to improve the final product, such modifications shall be approved by the Commission staff prior to implementation, in accordance with Section 13, below.

3. Deliverables to be Furnished by Contractor to Commission. In addition to the deliverables specified in the Contractor's Scope of Services, the Contractor shall submit:

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4. Use of Recycled Paper. The Contractor shall use recycled paper for all reports prepared as part of this agreement.

5. Supervision. Supervision of this Agreement for the Commission will be under the direction of _____.

6. Personnel.

(a) The Contractor represents that it has employed or will employ, at its own expense, all personnel required in performing the services under this Agreement. Such personnel will be employees of the Contractor and shall not be considered employees of or have any contractual relationship with the Commission.

(b) All of the services required hereunder shall be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified to perform the tasks assigned and, to the extent necessary, shall be authorized or licensed under State and local law to perform such services.

(c) None of the work or services covered by this Agreement shall be subcontracted unless prior written approval of the Commission has been obtained.

7. Representation Before Sponsoring Agencies. The Contractor agrees that it will not appear before or represent any party before any of the following agencies for the purpose of providing or interpreting information obtained or produced as a result of performing services under this Agreement without the written consent of that agency: Delaware River Basin Commission, New Jersey Department of Environmental Protection, Delaware Division of Natural Resources and Environmental Control, Pennsylvania Department of Environmental Protection and United States Environmental Protection Agency.

8. Time of Performance. The Contractor shall commence work under this Agreement as soon as practicable after the execution of the Agreement. The Agreement shall be undertaken in such manner as to assure its expeditious completion, but in any event all of the services shall be completed not later than _____.

9. Compensation. The total payable to the Contractor by the Commission for the services required under this Agreement shall not exceed \$ _____. This sum will be funded through _____.

10. Time of Payment.

(a) The Commission shall pay the Contractor upon proof of satisfactory progress for each of the components listed in the Contractor's Scope of Services and the Contractor's Schedule of Hourly Rate. Payment shall be made within 30 days following submission of an invoice, as long as the invoice is submitted no later than the 15th of the month beginning in _____ 200 . The invoice shall be in such form as may be required by the Commission and approved by the Executive Director. Billing shall be based each month on the percent of the work completed. Ten percent of each payment shall be withheld pending completion and acceptance by the Commission of all final reports. *The Contractor shall submit satisfactory documentation to the Commission of the in-kind contributions with the final bill.*

(b) In no case shall the Commission make any payment to the Contractor unless the Commission has received sufficient funds from the _____.

11. Termination of Agreement for Cause.

(a) In addition to any other rights established by law, the Commission shall have the right to terminate this Agreement if the Contractor fails to fulfill in a timely and proper manner

its obligations under this Agreement or violates any of the provisions of this Agreement. The Commission shall exercise this right to terminate by giving written notice of termination to the Contractor, specifying the effective date of termination. The Contractor shall cease to perform any work or services for the Commission under this Agreement as of the specified date of termination.

(b) In the event of a termination under subsection (a) hereof, the Contractor shall be entitled to just and equitable compensation only for such work as has been satisfactorily performed, completed and actually delivered to the Commission prior to the date of termination, subject to the further provisions of subsection (c) hereof, and in no event shall the amount payable to the Contractor exceed the amount that would be payable under Section 9 hereof. The Commission shall be entitled upon demand to immediate possession of any finished or unfinished work product that is in the control of the Contractor at the date of termination. In the event of termination under this subsection, the Contractor shall receive compensation on the same basis and to the same extent as provided herein for work already in the possession of the Commission, provided that the Contractor may retain copies of original drawings and specifications for its internal business use.

(c) The Commission's election to terminate this Agreement under subsection (a) above shall not relieve the Contractor of its liability to the Commission under this Agreement for damages sustained by the Commission as a result of the Contractor's failure to perform or breach of this Agreement. The Commission, in addition to any other rights it shall have, may deduct from any amounts otherwise payable to the Contractor or may recover from the Contractor any costs or expenses incurred to complete the work and services required of the Contractor under this Agreement.

12. Termination of Agreement.

(a) The Commission shall have the right to terminate this Agreement for any reason, including, but not limited to, the fact that appropriations, grants or other funds necessary for the financing of this Agreement are not made available to the Commission, but such termination shall not be effective until the Contractor is given at least fifteen days' written notice of the Commission's decision to terminate the Agreement.

(b) In the event of a termination under subsection (a) hereof, the Contractor shall be entitled to be compensated for all work performed and completed as of the date of termination,

but in no event for an amount greater than provided in Section 9 hereof. Any amounts that previously had been withheld by the Commission for such work shall be payable to the Contractor. In addition, the Contractor shall be entitled to be reimbursed for any actual out-of-pocket expenses incurred by the Contractor prior to termination that are directly attributable to any uncompleted portions of work or services covered by this Agreement. The Commission shall be entitled upon demand to immediate possession of any finished or unfinished work product that is in the control of the Contractor at the date of termination, in which event the Contractor shall receive compensation on the same basis and to the same extent as provided herein for work already in the possession of the Commission, provided that the Contractor may retain copies of original drawings and specifications for its internal business use.

13. Changes. The Commission may, from time to time, request changes in the scope of the services to be performed hereunder by the Contractor. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Commission and the Contractor, shall be incorporated in written amendments to this Agreement.

14. Contractor's Performance Standards. The Contractor shall have full professional and technical responsibility for performance of its services as provided herein in accordance with recognized professional standards of good practice.

The Contractor shall be responsible for the cost of correcting and modifying its services which fail to meet the foregoing standards.

The Contractor shall reimburse the Commission for all costs incurred by it to correct, modify or redesign any product submitted by the Contractor that as a result of a negligent act, error or omission on the part of the Contractor, its agents, servants or employees is found to be not in accordance with the provisions of this Agreement.

15. Insurance Provided by the Contractor. The Contractor shall provide, during the term of this Agreement, insurance applicable to its operations as follows:

(a) Worker's Compensation with statutory limits, and Employer Liability Insurance with a limit of \$1,000,000 per accident to provide for payment to the Contractor's employees in connection with the services covered by this Agreement and/or their dependents, of Worker's Compensation benefits, including, when required, Occupational Disease benefits in accordance

with applicable law. Applicable law shall include but shall not be limited to the U.S. Longshoremen's and Harbor Workers' Compensation Act and the Jones Act.

(b) Comprehensive General Liability Insurance on standard bureau form excluding professional liability but including Premises-Operations, Contractual Liability, Owner's and Contractor's Protective Liability, and Completed Operations Insurance, with a combined single limit of \$1,000,000 per occurrence and annual aggregate, for bodily injury and/or personal injury, including death and property damage.

(c) Comprehensive Automobile Public Liability Insurance (including owned, non-owned, and hired automobiles) with a combined single limit for bodily injury, death and property damage of \$1,000,000 per accident. This policy also provides coverage for Automobile Comprehensive, Fire and Theft insurance subject to a \$100 deductible and Collision insurance subject to a \$200 deductible on owned commercial vehicles.

(d) The Contractor shall maintain from the start of this Agreement until three (3) years after completion of this Agreement, a project professional liability insurance policy with limits of \$1,000,000 for any one claim and in the aggregate for the project.

(e) The Contractor shall provide the Commission, upon execution of this Agreement, the appropriate certificates of insurance, as outlined above, including the Commission as an additional insured for the term of this Agreement.

16. The Contractor, or any subcontractor, agrees to indemnify the Commission pursuant to item 17, herein.

17. Indemnification. The Contractor agrees to indemnify and save harmless the Commission and its agents, servants and employees for and from all claims, demands, suits, actions, recoveries, and judgments of every name and description, brought, recovered or extracted against it, for, or on account of any injuries or damages received or sustained by any party or parties by reason of any negligent act or omission of Contractor or of any agent or servant of Contractor, in or incident to the performance of the services under this Agreement, or by or in consequence of any negligence or carelessness in carrying out the same; or on account of the death of or injury to the person, or damages to the property of Contractor, or any of the agents, servants or employees of Contractor who shall be engaged in or about the work to be performed under this Agreement.

18. Non-discrimination. There shall be no discrimination against any employee who is employed in the work covered by this Agreement, or against any applicant for such employment, because of race, religion, color, sex or national origin. This provision shall include, but shall not be limited to, the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor shall insert a similar provision in all subcontracts for services covered by this Agreement.

19. Assignability. The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in this Agreement (whether by assignment or novation) without the prior written consent of the Commission thereto; provided, however, that claims for money due or to become due the Contractor from the Commission under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Commission.

20. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Agreement no person having such interest shall be employed.

21. Release of Findings. Any draft reports, information, data, etc., given to or prepared or assembled by the Contractor under this Agreement shall not be made available to or used for any individual or organization by the Contractor until it has been accepted in final form as determined by the Commission. Written notification by the Commission to the Contractor or payment in full for the services rendered under this Agreement shall signify acceptance in final form.

22. Ownership and Copyright of Computer Programs and Study Reports, Etc. The computer programs, data and other work products produced by the Contractor under this Agreement shall be the property of the Commission. No report, document or other data produced in whole or in part with funds paid by the Commission in consideration of services rendered under this Agreement shall be copyrighted by the Contractor nor shall any notice of copyright be registered by the Contractor in connection with any report, document or other data developed by it for the Study. This section does not restrict the investigator's right to publish in scientific journals or to present papers at conferences and submit them for publication in conference proceedings.

23. Compliance with Compact and Other Laws. In the performance of this Agreement, the Contractor shall comply with all of the requirements of the Delaware River Basin Compact and, without limitation thereto, the provisions of Sections 15.1(i) and 15.1(j) of Public Law 87-328, 75 Stat. 688, as well as all other applicable provisions of State and Federal laws.

24. Utilization of Small, Minority and Women's Business Enterprises. The Commission is required to ensure to the fullest extent possible that at least a "Fair Share" equal to 8% of Federal funds (MBEs 3%, WBEs 5%) for prime contract or subcontracts for supplies, construction, equipment or services is made available to organizations owned or controlled by socially and economically disadvantaged individuals, women and historically black colleges and universities. The Commission will require and the Contractor agrees to include in its bid documents the negotiated "Fair Share" percentages and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "Fair Share" percentages.

IN WITNESS WHEREOF, the Commission and the Contractor have executed this Agreement as of the date first above written.

ATTEST:

Delaware River Basin Commission

Pamela M. Bush, Esq. Secretary

BY _____
Carol R. Collier, Executive Director

BY _____

Approved as to form and legal sufficiency
this day of , 200 .

Pamela M. Bush, Esq. Assistant General Counsel
Delaware River Basin Commission